

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Conway	Team: Squad #15	CCRB Case #: 201507779	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 09/11/2015 11:40 PM	Location of Incident: East 86 Street [6 Line] subway station	Precinct: 19	18 Mo. SOL 3/11/2017	EO SOL 3/11/2017	
Date/Time CV Reported Mon, 09/14/2015 1:44 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/14/2015 1:44 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Alazraki	11753	949978	TB

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Oleksa	03336	950975	TB
2. POM Nicholas McKeever	25164	950867	TB

Officer(s)	Allegation	Investigator Recommendation
A.POM Christophe Alazraki	Force: PO Christopher Alazraki used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On September 14, 2015, Bronx Assistant District Attorney § 87(2)(b) filed this complaint with the CCRB by phone on behalf of a man identified by the investigation as § 87(2)(b).

At approximately 11:40 p.m. on September 11, 2015, § 87(2)(b) was seated on a northbound 6 train which stopped at the East 86th Street IRT Lexington Avenue Line station in Manhattan. § 87(2)(b) passed unlawfully between train cars onto § 87(2)(b)'s car, at which point he was stopped by two plainclothes officers identified by the investigation as PO Christopher Alazraki and PO Nicholas McKeever of the Transit Bureau, and removed from the train. While on the platform and prior to being handcuffed, PO Alazraki punched § 87(2)(b) several times in the stomach and chest (**Allegation A**). § 87(2)(b)'s arrest report indicates that he was arrested for § 87(2)(b).

Mediation, Civil and Criminal Histories

- Due to § 87(2)(b)'s arrest, this case was not eligible for mediation.
- A FOIL request was sent to the Office of the New York City Comptroller on November 27, 2015, seeking any notice of claim filed by § 87(2)(b) regarding this incident. Results will be included in this case file upon its return.
- An NYPD Booking, Arraignment, and Disposition database search indicated that § 87(2)(b) has no arrest history.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB History

- This is the first complaint filed by § 87(2)(b) with the CCRB, and the first case in which § 87(2)(b) is listed as a victim (encl. 08 Board Review).
- PO Alazraki has no substantiated allegations against him in his four-year tenure with the New York City Police Department. § 87(2)(g)
[REDACTED]

Attempts To Contact § 87(2)(b)

An NYPD Booking, Arraignment, and Disposition database search conducted on September 22, 2015, indicated that four individuals were arrested around the time of the incident at the East 86th Street and Lexington Avenue subway station. § 87(2)(b) was not among these individuals, and none of the other four matched the physical and clothing description provided by § 87(2)(b). § 87(2)(b) was shown photographs of the four arrestees on September 29, 2015, and was unable to conclusively identify any of the four individuals as the victim in this case. This confusion caused an investigative delay; it was not until PO McKeever was interviewed on November 25, 2015, that § 87(2)(b) was identified as the victim in this case. Video footage from the MTA indicated that at the time of the incident, three police officers were seen escorting out two individuals in handcuffs – one identified by the arrest photo as § 87(2)(b).

§ 87(2)(b) and the other remained unidentified. § 87(2)(b)'s arresting officer, PO Robert Oleksa of the Transit Bureau, was interviewed, and he identified the officer with custody of the unknown individual as PO McKeever. When PO McKeever was interviewed, he explained that because § 87(2)(b) had no identification they did not verify his identity until after midnight when he was brought back to the Transit District 4 stationhouse for processing, and so § 87(2)(b) appears on the next day's list of arrests in the BADS database.

A BADS defendant search was conducted for § 87(2)(b) § 87(2)(b). None of the arrest reports provide a phone number or an email address. A CTS/CCRB database search shows no prior cases in which § 87(2)(b) appears. As the arrest reports indicate that § 87(2)(b) may be homeless, a records check was sent to the New York City Department of Homeless Services (DHS) on November 25, 2015; on that same date, § 87(2)(b) of DHS confirmed via email that § 87(2)(b) was not active within their system (encl. 06 Board Review).

On November 25, 2015, CLEAR and LexisNexis database searches were conducted for § 87(2)(b) (encl. 07 Board Review). These searches provided no phone number, and indicated that § 87(2)(b)'s most recent listed addresses were in § 87(2)(b) over five years ago, with no recent addresses or contact information in New York City. A New York City Department of Correction search was conducted on November 27, 2015, indicating that § 87(2)(b) was not in their custody. As such, it was not possible to contact § 87(2)(b) for his statement in this case.

MTA Video Footage

The MTA provided video footage depicting the East 86th Street station around the incident time. In the relevant video clip, three plainclothes officers are seen escorting two arrestees § 87(2)(b) and § 87(2)(b) out of the emergency exit door in handcuffs.



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Finding and Recommendations

Recommendations

Allegation A—Force: PO Christopher Alazraki used physical force against § 87(2)(b)

It is undisputed that PO McKeever removed § 87(2)(b) from the 6 train to attempt to issue him a summons, and PO Alazraki joined in PO McKeever's stop. After it was decided that § 87(2)(b) would be arrested, PO McKeever and PO Alazraki both attempted to place § 87(2)(b)'s arms behind his back. Shortly after, PO Alazraki punched § 87(2)(b) with a closed fist on his torso several times.

§ 87(2)(b) stated that § 87(2)(b) was not resisting, fighting, trying to escape, or behaving in any aggressive or resistant manner towards the officers. He testified that PO Alazraki pinned § 87(2)(b)'s arm to the wall with his left hand, and used his right hand to punch § 87(2)(b) in the chest five to seven times, causing him to collapse down to the ground. § 87(2)(b) stated the people inside the train car exclaimed loudly in outrage, as § 87(2)(b) had done nothing to warrant such level of force (statement encl. 01 Board Review).

PO Alazraki was not immediately forthcoming with his admission that he punched § 87(2)(b). § 87(2)(g) PO Alazraki said that upon being removed from the train, § 87(2)(b) continually flailed his arms. PO Alazraki described this as

moving his arms up and down rapidly to evade being handcuffed, but could not describe this further. PO Alazraki denied that § 87(2)(b) attempted to punch or strike either officer. After § 87(2)(b) refused to place his arms behind his back and refused to submit to having his arms pulled behind his back, PO Alazraki stated he punched § 87(2)(b) two or three times to his arm and chest. PO Alazraki stated that this was “to overcome assault.” The punches had no effect on § 87(2)(b). Shortly after these punches were delivered, PO McKeever took § 87(2)(b) to the ground using a leg sweep (statement encl. 02 Board Review).

PO McKeever also described § 87(2)(b) as “flailing his arms” and described this as shaking or swinging his arms all around. PO McKeever denied that § 87(2)(b) was intentionally trying to strike or punch officers. PO McKeever generally corroborated PO Alazraki’s account of the punch, describing PO Alazraki as punching § 87(2)(b) in the stomach and chest an unknown amount of times immediately prior to PO McKeever taking § 87(2)(b) to the ground (statement encl. 03 Board Review).

NYPD Patrol Guide procedure 203-11 mandates that officers use the minimum necessary amount of force to overcome resistance (encl. 04 Board Review).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date